

REPUBLIC OF KENYA



Enhancing Accountability



REPORT

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 28 FEB 2024 DAY: THURS

TABLED BY: Hon. Naomi Wago, MP
Deputy majority whip
Shubuko

CLERK AT THE TABLE:

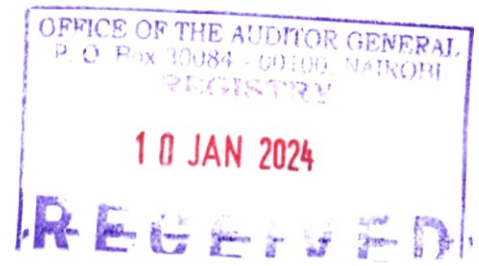
THE AUDITOR-GENERAL

ON

**RECEIVER OF REVENUE - REVENUE
STATEMENTS**

**FOR THE YEAR ENDED
30 JUNE, 2023**

STATE DEPARTMENT FOR MINING



STATE DEPARTMENT FOR MINING

RECEIVER OF REVENUE STATEMENTS

FOR THE FINANCIAL YEAR ENDED

30th JUNE 2023

**Prepared in accordance with the Cash Basis of Accounting Method under the
International Public Sector Accounting Standards (IPSAS)**

***State Department for Mining
Revenue Statements for the year ended 30th June 2023***

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State Department for Mining
Revenue Statements for the year ended 30th June 2023

1. Acronyms and Glossary of Terms

NT	National Treasury
NMC	National Mining Corporation
GRB	Geologist Registration Board
MRB	Mineral Rights Board
PFM	Public Finance Management
PSASB	Public Sector Accounting Standards Board
RoR	Receiver of Revenue
NAGS	National Airborne Geological Surveys

2. Key Entity Information and Management

(a) Background information

The State Department for Mining is under the Ministry of Mining Blue Economy and Maritime Affairs. At Cabinet level, the State Department for Mining is represented by the Cabinet Secretary for Mining, Blue Economy and Maritime Affairs, who is responsible for the general policy and strategic direction of the State Department for Mining. The State Department for Mining was designated as a Receiver on 1st December 2022 by the Cabinet Secretary, National Treasury in accordance with Section 75 of the PFM Act, 2012.

(b) Principal activities

The mandate of the State Department for Mining as derived from the Executive Order No. 1 of January, 2023 on the Organization of Government of the Republic of Kenya include: -

- (i) Development of policies on the extractive industry;
- (ii) Undertaking mineral exploration and mining policy management;
- (iii) Maintaining an inventory and mapping of mineral resources,
- (iv) Development of mining and minerals development policies and standards,
- (v) Maintenance of Geological Data (Research, Collection, Collation, Analysis),
- (vi) Policies on the Management of Quarrying of Rocks and Industrial Minerals;
- (vii) Mining Capacity Development and Value Addition; and
- (viii) Management of Health Conditions and Health and Safety in Mines.

The State Department has oversight responsibilities over the National Mining Corporation (NMC), the Mineral Rights Board (MRB), Kenya National Mining Institute and the Geologist Registration Board (GRB).

The State Department for Mining collects revenue from levy on cement, Mineral Export Licence Fee, Prospecting Fee as well as royalties from: Carbon Dioxide, Magadi Soda and Base Titanium. Revenue collected is remitted to the National Treasury's Exchequer Account (Consolidated Fund)

State Department for Mining
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(c) Key Management

The State Department for Mining's day-to-day management is under following key management personnel who held office during the financial year ended 30th June 2023 and who had direct fiduciary responsibility. These are:

S/No.	Designation	Name
1	Cabinet Secretary	Hon Salim Mvurya, EGH
2	Accounting Officer	Elijah G. Mwangi
3	Director Administration	David Onyancha, OGW
4	Ag. Director of Mines	Gregory Kituku
5	Ag. Director Geological Survey	Enoch Kipseba
6	Senior Deputy Director- Supply Chain Management System	Stephen Wamae
7	Director Human Resource Management and Development	Francis M Mutisya
8	Director Central Planning and Project Monitoring Department	Paul N. Mirie
9	Chief Finance Officer	Samuel K Waithaka
10	Deputy Accountant General	Kipyegon Henry Siele
11	Director Public Communications	Robert Chepkwony
12	Deputy Director ICT	James Njiru
13	Senior State Counsel	Patricia Mabil

State Department for Mining
Revenue Statements for the year ended 30th June 2023

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NAIROBI Phone: +254 (020) 272
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(d) Independent Auditors Auditor-General
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Nairobi, Kenya

State Department for Mining
Revenue Statements for the year ended 30th June 2023

Key Entity Information and Management (continued)

(e) Principal Legal Adviser

Office of the Attorney General and Department of Justice
Sheria House, Harambee Avenue
P.O. Box 40112
GPO 00100
Nairobi, Kenya

(f) Bankers

Central Bank of Kenya
Haile Selassie Avenue
P. O. Box 60000 - 00200
Nairobi, Kenya

3. Management Discussion and Analysis

The Kenyan mining sector is richly endowed with immense mineral potential which constitutes of industrial minerals such as soda ash (Trona), fluorspar, titanium and zirconium; fuel minerals such as coal; and minerals such as Copper, Zinc, Gold, Silver, Manganese, Gypsum, Diatomite and gemstones such as rubies, tourmaline, tsavorite, sapphires.

The country's mining sector remains bright as known mineral resources that include rare earth minerals, ornamental stones, carbon dioxide, fluorspar, limestone, iron ore, gold, gypsum and other minerals remain largely underexplored and under-exploited. However, in the past years, economic policies have favoured other sectors giving little attention to the mining sector leading to low contribution to the gross domestic product (GDP). The sector's contribution to GDP currently stands at less than 1% (KNBS Economic Survey, 2023) The contribution of the sector to GDP is expected to grow exponentially with full implementation of reforms envisaged in this report

The mining sector is regulated under the Mining Act 2016 and subsequent regulations and other guidelines that have been put in place to facilitate implementation of the Act for sustainable management mining operations. Despite having one of the best and most progressive mining regulatory frameworks in the continent, Kenya has not actualized her full mineral potential

Currently, the Online Mining Cadastre register contains 427 active mineral rights (prospecting and mining), 349 active and new applications of mineral dealings and 581 applications for mineral rights awaiting processing.

The mining activities in the State Department are regulated by the Mining Act, 2016, which provides for allocation of rights over minerals in the Republic of Kenya to interested parties to undertake operations related to prospecting (exploration), mining, processing, trading, exporting of minerals. The rights over minerals differ with types of operations as illustrated below

Prospecting Operations

Prospecting rights grants the holder exclusive rights to prospect (explore) for mineral(s) over a specified area. Prospecting operations may include, but not limited to, such activities undertaken to establish the spatial extent and viability of a mineral occurrence for commercial exploitation (mining) Such operations can either be carried on large scale or at small scale capacities. There are currently 114 prospecting rights holders who are licensed However, 26 illegal prospecting operations have been reported so far

Mining Operations

Rights to undertake mining operations in Kenya are acquired through the grant of mining rights in accordance with the provisions of the Mining Act. Mining rights bestows upon the holder exclusive rights to explore for and/or mine minerals over the area specified in the lease mining area. Mining operations take place in various levels including large scale, small scale and artisanal mining activities.

However, across the country there is a prevalence of mining activities which are popularly employed in extraction of construction materials i.e. aggregates (ballast), building blocks and building sand. These activities, conventionally referred to as quarries, have mainly been regulated by other Agencies in the past years. Despite all mining activities being a function of the National Government, some of the County Governments have gone to an extent of developing and implementing their own legal frameworks. There is therefore a need to regulate them as envisaged in the Mining Act.

Artisanal Mining

This are mining operations undertaken by an individual, communities or groups of miners who use simple equipment or rudimentary tools; The activities are associated with labour intensive, child labour, and adverse environmental impacts. Artisanal miners are the major stakeholders in the mining sector because most citizens take mining as the main source of livelihoods in the rural mineral rich parts of the country supporting over 800,000 people. The sector however, is unable to sustainably grow due to some constraints such as its informal nature, financial illiteracy, limited technical skills of the miners, poor health and safety standards, inaccessibility of geo-data and mismanagement of environment.

The State Department intends to deliver the Government's Bottom-Up Economic Transformation Agenda (BETA) where one of its key objectives is enhancing grassroots development by empowering communities and ensuring that resources are sustainably exploited to uplift the lives of ordinary citizens.

Mineral Exploration

A Mineral Exploration process involves searching for evidence of any mineralization hosted in the surrounding rocks. The general principle works by collecting and extracting pieces of geological information from several places, and extrapolating this over the larger area to develop a geological picture. There are six (6) stages in the mineral exploration process that includes project initiation, field investigation, target evaluation, field work, and resource estimation which takes between 20 and 30 years to completion.

Joint Mineral Exploration Programs

Some of the available detailed geological reports were carried out through joint mineral exploration programmes between Kenya and other countries. Much of the western part of the country has been explored by a joint Kenya Government-United Nations team; Japan International Cooperation (JICA) also collaborated with the Geological Survey Directorate in carrying out detailed mineral exploration in 1988-1991 in the western and coastal areas of the country.

Nationwide Airborne Geophysical Survey

The landmass and marine National Airborne Geophysical Survey (NAGS) was conducted from January 2019 to June 2022 to collect geophysical magnetics and radiometric datasets all over Kenya and its exclusive economic zone by use of an aircraft mounted with geophysical equipment. The collected datasets will aid to map the mineralized ore environment followed by identifying the mineralized zones. The project is currently at 94% completion stage with remaining areas earmarked for completion at the end of 2024.

In the Report 970 potential mineral targets were identified from the preliminary interpretation of the obtained magnetic and radiometric data sets. The Ministry in collaboration with a Joint National Mapping team has planned to conduct a preliminary ground truthing of the acquired geophysical targets which is essential in providing a more accurate depiction of the surface and subsurface mineral occurrences. The new mineral occurrences identified during the ground truthing exercise will be vital in updating the current geo-data bank and mineral plot on the mineral occurrence map. The results of the exercise will also pave the way for a detailed mineral exploration exercise focusing on the identified and confirmed mineral occurrences targets.

Drilling Services

The Directorate of Geological Surveys has three (3) Exploration Diamond Core drill rigs operated by qualified and skilled drilling experts to supervise and operate the rigs. The rigs are used in exploratory drilling projects such as the Marimantı iron-ore, Kisii soapstone, Taru coal and Myanga gold.

The National Geodata Bank

The Kenya Geological Survey carried out projected geological mapping and mineral prospecting, about three quarters of Kenya has undergone geological mapping and mineral prospecting over the years and most of the available geo-data was obtained during this period. All the reports developed

State Department for Mining
Revenue Statements for the year ended 30th June 2023

over this period have been published and are available in both hard copy and soft copy at the Department's Library and the National Geodata Bank.

Over the last five years, the State Departments revenue surpassed the set targets in various items while some others the companies under-performed as seen in the tables below:

Table 1: The National Treasury revenue targets for Financial Year 2022/23 is as given below:

Code	Details	Estimates 2022/23
1146001	Cement Levy	1,161,903,809
1145013	Mineral Export Licence Fee	9,117,051
1145009	Prospecting Fee	14,096,604
1415003	Royalty on Carbon Dioxide	11,461,646
1415004	Mining Royalties	199,033,597
1415005	Magadi Soda Royalty	247,095,645
1415006	Base Titanium Royalty	721,443,707
	Total for Vote 117 for FY 2022/2023	2,364,152,060

Table: 2 Review of revenue targets and actual performance for the last five (5) FYs 2017/18-2021/22

Item	Revenue Targets for FYs 2018-2023 in KSH (Millions)					Actual Revenue for FYs 2018-2023 in KSH (Millions)				
	2018-20 19	2019-20 20	2020-20 21	2021-20 22	2022-20 23	2018-20 19	2019-20 20	2020-20 21	2021-20 22	2022-20 23
Cement Levy	761.82	686.98	651.67	991.47	1,161.9	776.31	859.48	882.50	988.39	1,041.6 6.
Mineral Export fee	8.86	0.00	6.19	7.59	199.03	7.20	4.05	8.51	15.94	9.83
Other Mining Royalties	150.35	187.42	100.59	161.08	9.11	117.04	193.38	163.58	242.74	242.74
Magadi Soda Royalties	57.73	145.29	156.83	193.49	247.09	195.14	105.23	235.18	3,371.70	448.64
Base Titanium Royalties	426.91	583.00	479.49	674.53	721.44	519.56	508.57	535.51	1269.86	1,521.4 2
Carbacid (CO2)	0.00	0.00	25.07	23.47	11.46	6.43	0.00	18.41	3.76	4.12
Prospectin g fee	0.00	0.00	19.33	0.00	14.09	0.00	0.00	0.00	0.00	0.6
Totals	1,405.67	1,602.69	1,439.17	2,051.63	2,364.15	1,621.69	1,670.72	1,843.68	4,838.66	3,721.44

***State Department for Mining
Revenue Statements for the year ended 30th June 2023***

Base Titanium current royalty for the FY 2021/22 include arrears received during the year of Kshs The cement levy, Mineral Royalties, and Mineral Dealers' License fees collections have over the years under review maintained a steady upward trend same case with Base Titanium given the increase in the volume of sales.

Royalties from Tata Magadi Soda company improved during the current year. The company settled part of the arrears in the current year.

The global performance is that on average, SDM has been surpassing its targets, notably, with small margins from FYs 2018/2019, However, there was a decline in the FY 2019-2020 attributed to restrictions on movement to contain the COVID-19 pandemic there after the State Department's revenue continued to be on the increase due to measures being put in place to enhance revenue collection

State Department for Mining
Revenue Statements for the year ended 30th June 2023

Table: 3 Summary of revenue targets and actual performance for FY 2022/23

Revenue Item	Total Revenue Target for the FY 2022/23	Total Actual Revenue FY 2022/23	% Revenue Target FY 2022/23	% Actual Revenue FY 2022/23
	(Ksh)	(Ksh)		
Levy on Cement Minerals	1,161,903,809	1,041,657,387	49	44
Royalty on Carbon Dioxide	11,461,646	4,161,152	0	0
Royalty on exports & extraction of Minerals	199,033,597	188,790,242	9	8
Royalty on Tata Chemicals Magadi	247,095,645	652,800,692	10	28
Mineral Export License Fee	9,117,051	11,091,550	0	0
Prospecting fee	14,096,604	60,000	1	0
Base Titanium Royalty	721,443,707	1,822,882,658	31	77
Totals	2,364,152,060	3,721,443,681	100	157

The State Department for Mining is budgeted to collect the relatively bigger proportion of the revenue from cement levy, Base Titanium Royalty and Royalty on Tata Chemicals at 49 %, 31% and 10 % respectively. During the current FY 2022/23 SDM's collection passed the one and half mark in percentage by achieving 157%.

The major increase in revenue in the previous financial year 2021/2022 was as a result of payment of arrears by Base Titanium company amounting to Ksh 2,101,834,223, otherwise the actual collection for that FY was Kshs. 2,736,827,007. None the less, SDM still managed to surpass the set target.

Table 4: The Cement Levy collection for individual companies for FY 2022/2023

Company name	FY 2022/2023	FY 2021/2022
Mombasa Cement Ltd	343,544,628	282,995,323
Athi River Mining		17,028,356
Bamburi Cement Co. Ltd	299,960,080	320,125,608
National Cement Ltd	429,638,510	345,842,612
Rai Cement Ltd	9,994,800	16,746,000
Savannah Cement Company Ltd	-	-

State Department for Mining
Revenue Statements for the year ended 30th June 2023

KarsanRamji & Sons Ltd	7,136,394	5,658,556
Total	1,041,657,387	988,396,455

Remarkable improvement was witnessed in the year under review due to several measures put into place as recommended by the Revenue and Appropriations-In-Aid (AIA) Committee that was constituted to devise measures on enhancing the Revenue and AIA collections.

- Savannah Cement obtained Court ruling against payment of Cement Levy.

4. Statement of Receiver of Revenue's Responsibilities

Section 82 (1) of the Public Finance Management Act, 2012 requires that, at the end of each financial year, a receiver of revenue shall prepare an account of the revenue received and collected by that receiver during that financial year.

The Principal Secretary / the designated receiver of revenue in charge of the State Department for Mining is responsible for the preparation and presentation of the State Department for Mining revenue account which gives a true and fair view of the state of affairs of the State Department's revenue as at the end of the financial year (period) ended on June 30, 2023. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the entity; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the State Department for Mining; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Principal Secretary/ designated receiver of revenue in charge of the State Department for Mining accepts responsibility for the State Department for Mining's accounts, which have been prepared on the Cash Basis Method of Financial Reporting, using appropriate accounting policies in accordance with International Public Sector Accounting Standards (IPSAS) and relevant legal framework of the Government of Kenya. The Principal Secretary is of the opinion that the State Department for Mining receiver of revenue account gives a true and fair view of the state of State Departments receiver of revenue transactions during the financial year ended June 30, 2023, and of the State Department for Mining's financial position as at that date. The Principal Secretary in charge of the State Department for Mining further confirms the completeness of the accounting records maintained for the State Department for Mining which have been relied upon in the preparation of the State Department for Mining Revenue account as well as the adequacy of the systems of internal financial control.


The Principal Secretary in charge of the State Department for Mining confirms that the entity has complied fully with applicable Government Regulations and the terms of external financing covenants (where applicable), and that the entity's funds received during the year under audit were used for the eligible purposes for which they were intended and were properly accounted for. Further the Principal

State Department for Mining
Revenue Statements for the year ended 30th June 2023

Secretary confirms that the State Department for Mining's accounts have been prepared in a form that complies with relevant accounting standards prescribed by the Public Sector Accounting Standards Board of Kenya.

Approval of the Revenue Statements

The revenue statements were approved and signed on 27th December.....2023, by:

.....

Elijah Mwangi, CBS, C.B.S
Principal Secretary

REPUBLIC OF KENYA

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REPORT OF THE AUDITOR-GENERAL ON RECEIVER OF REVENUE - REVENUE STATEMENTS FOR THE YEAR ENDED 30 JUNE, 2023 - STATE DEPARTMENT FOR MINING

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Revenue Statements that considers whether the revenue statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment, and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE REVENUE STATEMENTS

Qualified Opinion

I have audited the accompanying revenue statements of the Receiver of Revenue – Revenue Statements - State Department for Mining set out on pages 1 to 20, which

Report of the Auditor-General on Receiver of Revenue – Revenue Statements for the year ended 30 June, 2023 - State Department for Mining

comprise of the statement of arrears of revenue, statement of financial assets and liabilities as at 30 June, 2023, statement of receipts and disbursements, statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the revenue statements present fairly, in all material respects, the arrears of revenue of the Receiver of Revenue - State Department for Mining as at 30 June, 2023, and the revenue performance for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the Public Finance Management Act, 2012 and the Mining Act, 2016.

Basis for Qualified Opinion

Unsupported and Long Outstanding Arrears of Revenue

The statement of arrears of revenue reflects total arrears of Kshs.2,271,843,904 as at 30 June, 2023. The balance includes arrears settled during the financial year under review amounting to Kshs.306,764,679. However, review of the arrears records revealed the following anomalies:

- i. The statement of arrears of revenue reflects a balance of Kshs.94,961,522 in respect of Carbacid (CO2) Limited. The amount includes Kshs.27,809,296 arrears which was accrued during the year under review. However, supporting schedule provided for audit reflected an amount of Kshs.32,999,506 resulting in an unexplained variance of Kshs.5,190,210.
- ii. The arrears in revenue includes Kshs.1,685,721,025 owed by various companies which has been outstanding for more than three years and were indicated to be recoverable. However, it was not possible to confirm, how the amounts would be recovered as some of the Companies owing had not renewed their mining licenses while others had been suspended from undertaking mining operations.

In the circumstances, the recoverability of the arrears totalling to Kshs.1,685,721,025 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Receiver of Revenue - State Department for Mining Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of revenue statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the revenue statements. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Audit Matters

In the audit of the previous year, several issues were raised under Report on Revenue Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, Management has not resolved the issues or explained the failure to adhere to the provisions of the Public Sector Accounting Standards Board reporting template and The National Treasury Circular AG.3/88/VoL.II (28) dated 9 May, 2023.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Non-Compliance with Mineral Dealers' License Requirements

Review of the mining cadastral records on dealings with minerals maintained by the State Department for Mining revealed that mineral dealers' licences were being issued manually. In addition, four hundred and thirty seven (437) applications for renewal of licences and permits were not verified for issuance within the stipulated thirty (30) days' period as none had been renewed as at 30 June, 2023. Further, the status of the licenses in the cadaster system was reflected as 'evaluation in progress' or document was still in verification process. No explanation was provided for the contravention of the provisions of the Act in delay in approval and issuance or renewal of licenses in digital format.

2. Irregular Reduction of Cement Levy Payable

The statement of receipts and disbursements reflects non-tax receipts of Kshs.3,717,649,241 which, as disclosed in Note 2 to the financial statements, includes Kshs.1,041,657,387 in respect to cement levy. Analysis of production and sales reports from Rai Cement Company revealed a variance of Kshs.3,997,920 (2022: Kshs.6,698,400) between cement levy remitted to the Ministry of Kshs.9,994,800 and the levy due on sales of Kshs.13,992,720. Further, analysis of production and sales reports from the Company for prior years revealed a cumulative loss of revenue of Kshs.10,696,320 due to irregular reduction of cement levy payable as shown below:

Year	Production in Metric Tonnes	Amount Payable (@140 per Tonne) (Kshs.)	Amount Received (Kshs.)	Variance (Kshs.)
2021/2022	167,460	23,444,400	16,746,000	6,698,400
2022/2023	99,948	13,992,720	9,994,800	3,997,920
Total	267,408	37,437,120	26,740,800	10,696,320

According to Sections 183(2) and 188(2) of the Mining Act, 2016, the Cabinet Secretary is required to make regulations to provide for the conditions and criteria for determining application for reduction or suspension of payment of royalties. Although a letter from the Cabinet Secretary dated 15 June, 2021 provided for audit authorized the Company to pay a reduced cement levy rate of Kshs.100 per tonne instead of the gazetted rate of Kshs.140 per tonne. However, the letter was not based on any existing regulations as required.

In the circumstances, due to the variations, the Government cumulatively lost revenue amounting to Kshs.10,696,320 as at 30 June, 2023.

3. Irregular Waiver of Ground Rent

Review of records of Cement Companies in operation revealed a letter dated 11 December, 2020 which granted a waiver for payment of ground rent to a Cement Company Limited operating in West Pokot County under four mining licenses by the Cabinet Secretary for Mining. However, there is no provision in law on waiver of ground rent fees by the Cabinet Secretary.

The prescribed annual ground rent for a mining lease is Kshs.2,000 per hectare per mining lease year subject to a minimum of Kshs.500,000, resulting to a total ground rent of Kshs.79,157,916 from four licenses.

In the circumstances, the validity of ground rent waivers could not be confirmed.

4. Delay in Formulation of Regulations for Site Rehabilitation and Mine Closure

Review of cadaster records for mineral rights holders maintained by the State Department of Mining revealed that applicants submitted site mitigation and rehabilitation (mine-closure) plans. However, the plans were not accompanied by an environmental protection bond to cover the costs associated with the implementation of the environmental and rehabilitation obligations of the mineral holders. This was attributed to the delay in formulating regulations for mine-closure obligations despite Mining Act, 2016 having been long operationalized in 2016.

In the circumstances, Management was in breach of the law.

5. Delays in Establishing Artisanal Mining Committees

Records at the State Department indicates that as at 30 June, 2023, only nine (9) out of forty seven (47) Counties had established Artisanal Mining Committees. Additionally, out of the nine (9) committees which had been established, the terms of members in three

(3) artisanal mining committees' had expired. This was contrary to Section 94 (1) of the Mining Act, 2016.

Subsequently, there was no evidence indicating that Artisanal Mining Committees of Narok, Turkana, Kisii, Taita-Taveta, Siaya, and Migori Counties had held meetings and deliberations concerning recommendations for issuance of artisanal mining permits since they were established in 2021. Further, a register of artisanal miners was maintained in the six (6) counties but there was no record of any artisanal mining permits issued.

In the circumstances, Management was in breach of the law.

6. Unlicensed Mineral Leaching Operations in Migori

Site visits carried out in September, 2023 to mining areas in Migori and Narok Counties revealed that several gold leaching plants lacked requisite mineral processing licence and permits as provided by law. The plants were processing gold which is the major mineral mined by artisanal miners in the regions.

Additionally, both small-scale and large-scale operators were using cyanidation and mercury to extract gold from tailings and ore. Cyanidation is widely used to process tailings as it was regarded to be efficient and cost saving. However, the chemicals used were harmful to small-scale operators who were not using protective equipment like gloves, gumboots, goggles among others. Further, discharges from the process contained harmful chemicals which were not properly disposed and thus abandoned at the sites since most leaching sites lacked proper protective and disposal mechanism. The leaching plants are also situated in close proximity with neighborhoods where people live and posed health and environmental risks.

In the circumstances, the activities of the operators of gold leaching plants were unlawful and harmful to human life, animals, and the environment.

7. Illegal Mining Operations of Soapstone in Kisii County

A visit to Tabaka, South Mugirango and Nyamarambe Sub Counties in Kisii County revealed that several individuals and companies were mining soapstone without mining permits granted by the State Department of Mining. In addition, officials from the Kisii County Government had closed mining operations at the sites due to depletion and over exploitation of the resources. However, site visits confirmed that despite the closure, mining operations were still ongoing in some mines. Further, miners at the active sites lacked protective equipment hence exposing themselves to health hazards.

In the circumstances, the Management was in breach of the law.

8. Stalled Establishment of a Soapstone Value Addition Center in Kisii County

The State Department of Mining initiated a soapstone value addition centre project in Kisii County in October, 2018 at an estimated cost of Kshs.300 million. The purpose of the centre was to create value addition to the business of soapstone in the Kisii Region. Records provided revealed that a consultant, was contracted to conduct a feasibility study for the project at a cost of Kshs.13,771,520.

Physical verification carried out in Tabaka Mining revealed the project was yet to start, five (5) years later, despite the feasibility study having concluded that the project was viable. Management indicated that the Government was yet to acquire land for the project.

In the circumstances, the value for money incurred on feasibility studies and research amounting to Kshs.13,771,520 could not be confirmed.

9. Reporting on Mining and Mineral Related Activities

Review of records maintained at the State Department in respect of reporting by mineral rights holders revealed the following anomalies and non-compliance with the law:

- i. Three (3) limestone mining companies namely Mombasa Cement Limited, Bamburi Cement Limited, and National Cement Company Limited did not submit half-year reports and annual performance reports on employment and training activities contrary to Regulation 6 and 10 of the Mining (Employment and Training) Regulations, 2017.
- ii. There were no annual reports on the use of local goods and services (Kenyan content) prepared by three (3) holders of limestones mining licenses namely Mombasa Cement Limited, Bamburi Cement Limited, and National Cement Company Limited were provided for audit review contrary to Regulation 16 of the Mining (Use of Local Goods and Services) Regulations, 2017 which states that a holder of a license shall, not later than thirty days after the beginning of each license year, submit to the Director of Mines an annual report on Kenyan content.
- iii. Community development agreements signed between mining license holders and communities by the Management of Bamburi Cement Limited and National Cement Company provided for audit review had no community development agreement contrary to Section 109 of the Mining Act, 2016 that states the holder of a mining license shall sign a community development agreement with the community where mining operations are to be carried out in such a manner as shall be prescribed in Regulations.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, transactions and information reflected in the revenue statements comply, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

1. Unidentified Revenue from Construction Minerals

Review of the financial statements and revenue records including the cadaster system reports revealed that the State Department does not have policies and procedures to identify, collect and account for revenue from construction and industrial minerals which include, but not limited to quarry stones, salt and soapstone listed on the First Schedule Part (A) of Mining Act, 2016. This is contrary to Regulation 64(1)(a) of the Public Finance Management (National Government) Regulations, 2015.

In the circumstances, the existence and effectiveness of measures to identify and assess mineral revenue sources could not be confirmed.

2. Lack of Inspectors for Mines at Border Points

Site visits for Large Scale Gold Miners at Kilimapesa Gold (PTY) Limited based in Narok County and Copper Hill Exploration and Mining Resources Company Limited in Migori County and other mining sites in the region revealed that the State Department had no designated inspectors from the Directorate of Mines minerals extracted were accurately confirmed before leaving the mines. Instead, the Director of mines relied on self-assessments by the companies. Additionally, there was no mechanism in place to confirm the accuracy of production records provided by the mineral rights holders which may result in under declaration of sales made and royalties payable on those sales. Further, discussions and interviews held with miners and other State Department officers revealed that gold mined in Narok and Migori is smuggled to Tanzania and other neighboring countries through Isebania and other border points, since there are no mining officers stationed at those boarder points to inspect and mitigate the risk of the smuggled gold, copper and other minerals.

In the circumstances, the existence and effectiveness of controls to monitor operations, measure quantities extracted could not be confirmed and Management was in breach of the law.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these revenue statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of statements that are free from material misstatement, whether due to fraud or error and for assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the revenue statements, Management is responsible for assessing the Receiver of Revenue's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Receiver of Revenue or to cease operations.

Management is also responsible for the submission of the revenue statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for preparing and presenting the revenue statements described above, Management is also responsible for ensuring that the activities, transactions and information reflected in the revenue statements comply with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the revenue reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the revenue statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these revenue statements.

In addition to the audit of the revenue statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, transactions and information reflected in the revenue statements comply with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution.

Further, in planning and performing the audit of the revenue statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not

reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the revenue statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the revenue statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the ability of the Receiver of Revenue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the revenue statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Receiver of Revenue to cease to offer its services.
- Evaluate the overall presentation, structure and content of the revenue statements, including the disclosures, and whether the revenue statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding information and business activities of the Receiver of Revenue to express an opinion on the revenue statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and where applicable, related safeguards.


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

24 January, 2024


*State Department for Mining
Revenue Statements for the year ended 30th June 2023*


6. Statement of Receipts and Disbursements for the year ended 30th June 2023

	Not e	2022/2023 Kshs	2021/2022 Kshs
Non -tax receipts			
Property income	2	3,717,649,241	4,838,661,230
Total non -tax receipts		3,717,649,241	4,838,661,230
Total receipts		3,717,649,241	4,838,661,230
Disbursements to exchequer account		(3,720,319,241)	(4,838,661,230)
Balance due for disbursement		2,670,000*	0

NB: * The excess disbursement amount of Kshs 2,670,000 above was in respect of Dealers Processing Licenses Fees which is an item of AIA that was wrongly classified and posted under Mineral Export License, a Revenue item. The said amount was swept into the exchequer as per the policy of sweeping on daily basis.

The accounting policies and explanatory notes to these revenue statements form an integral part of the revenue statements. These revenue statements were approved on 29th December 2023 and signed by:

.....

Elijah Mwangi, CBS
Principal Secretary
(Ref: PFM ACT section 82,2(a))

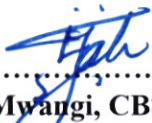
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Kipyegon Henry Siele
Head of Accounting Unit
ICPAK No. 8879


*State Department for Mining
Revenue Statements for the year ended 30th June 2023*

7. Statement of Financial Assets and Liabilities as at 30th June 2023

	Note	2022/2023	2021/2022
		Kshs	Kshs
Financial Assets			
Cash and Cash Equivalents		-	-
Bank Balances	4	-	-
Total Financial Assets		-	-
Total Financial Assets		-	-
Financial Liabilities			
Payables-Due to Exchequer	5	-	-
Total Financial Liabilities		-	-

The accounting policies and explanatory notes to these revenue statements form an integral part of the revenue statements. These Revenue Statements were approved on 29th December 2023 and signed by:


.....
Elijah Mwangi, CBS
Principal Secretary
(Ref: PFM ACT section 82,2(a))


.....
Kipyegon Henry Siele
Head of Accounting Unit
ICPAK No. 8879

*State Department for Mining
Revenue Statements for the year ended 30th June 2023*

8.Statement of Comparison of Budget and Actual Amounts for the Year ended 30th June 2023

Non -tax receipts					
Levy on Cement Minerals	1,161,903,809	-	1,161,903,809	1,041,657,387	90%
Royalty on Carbon Dioxide	11,461,646	-	11,461,646	4,161,152	36%
Royalty on exports & extraction of Minerals	199,033,597	-	199,033,597	187,665,802	95%
Royalty on Tata Chemicals Magadi	247,095,645	-	247,095,645	652,800,692	264%
Mineral Export License Fee	9,117,051	-	9,117,051	8,421,550	122%
Prospecting fee	14,096,604	-	14,096,604	60,000	0%
Base Titanium Royalty	721,443,707	-	721,443,707	1,822,882,658	211%
Total receipts	2,364,152,059	-	2,364,152,059	3,717,649,241	

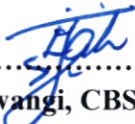
Budget Notes:


- 1 The amount paid by Carbacid arose from self-assessment where the company based the Royalty payment on mine head (raw CO₂) The State Department's computation is based on FOB (sales at the point of exit), therefore, there exists arrears which will be recovered in the subsequent years
2. The underperformance on cement levy can be attributed to use of low rates (Kshs. 100) by some companies in their cement levy computation while the SDM had based their computation on the approved royalty rate of Kshs 140 per tonne
3. There were increased mineral extraction activities hence increase in revenue on Exports & Extraction of Minerals

State Department for Mining
Revenue Statements for the year ended 30th June 2023

4. Royalty on Tata Chemicals surpassed the budget as a result of payment of arrears.
5. Mineral Export License Fee: There has been increase in compliance due to migration to KENTRADE platform and enforcement of enhanced revenue collection measures.
6. Base Titanium paid Royalties a rate of 3% before upscaling to 5% in the current year. The Royalty more than doubled due to the increase in the rate.
7. Prospecting fees was adversely affected by the Moratorium of 2019, and therefore, no new Prospecting Licenses were issued to the companies

The entity Financial Statements were approved on *29th December* 2023 and signed by:

.....

Elijah Mwangi, CBS
Principal Secretary
(Ref: PFM ACT section 82,2(a))

.....

Kipyegon Henry Siele
Head of Accounting Unit
ICPAK No. 8879

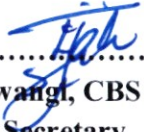
9. Statement of Arrears of Revenue as at 30th June 2023 5


Classification of Receipts	Balance as at 1st July 2022	Arrears received during the year	Total arrears as at 30th June 2023	Measures taken to recover the arrears	Assessment to the recoverability of arrears
	Kshs	Kshs	Kshs		
Non- Tax Receipts					
Tata Magadi	1,050,467,818	(90,379,042)	960,088,776	Withholding of export permits	Recoverable
African Diatomite	21,030,156	-	21,030,156	Suspension of operations	Recoverable
Kilimapesa	5,487,722	(2,599,387)	2,888,335	Withholding of export permits	Recoverable
Carbacid (CO2) LTD	99,122,674	(4,161,152)	94,961,522	Withholding of export permits	Recoverable
National Cement	101,063,228	(4,072,825)	105,136,053	The amount is been paid in the first quarter FY 2023/2024	
KarsanRamji & Sons	1,924,851	(1,924,851)	0		
Bamburi Cement	163,145,275	(141,260,913)	21,884,362	The amount is been paid in the first quarter FY 2023/2024	Recoverable
Mombasa Cement	70,512,159	(70,512,159)	0		
EA Portland	404,759,572	-	404,759,572	Suspension of mining operations	Recoverable

State Department for Mining
Revenue Statements for the year ended 30th June 2023

ARM	290,232,493	-	290,232,493	Company was under receivership and has since been sold to National Cement company. SDM is in consultation with the TNT	Not sure of recovery
Savannah	370,862,635	-	370,862,635	Further consultation with the National Treasury	There is an out of court settlement entered to forego the arrears
TOTALS	2,578,608,583	306,764,682	2,271,843,904		

An ageing analysis of revenue in arrears has been shown on note 12 of these financial statements.

.....

Elijah Mwangi, CBS
Principal Secretary
(Ref: PFM ACT section 82,2(a))

.....

Kipyegon Henry Siele
Head of Accounting Unit
ICPAK No. 8879

10. Significant Accounting Policies

The key accounting policies adopted in the preparation of these revenue statements are set out below:

1. Statement of Compliance and Basis of Preparation

The revenue statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS) with particular emphasis on Cash Basis Financial Reporting and relevant legal framework of the Government of Kenya. The financial statements comply with and conform to the form of presentation prescribed by the Public Sector Accounting Standards Board of Kenya. The financial statements are presented in Kenya Shillings, which is the functional and reporting currency of the State Department for Mining, and all values are rounded to the nearest Kenya Shilling. The accounting policies adopted have been consistently applied to all the years presented.

The revenue statements have been prepared on the Cash Basis following the Government's standard chart of accounts. The cash basis of accounting recognises transactions and events only when cash is received or paid by the State Department for Mining.

2. Recognition of Receipts

The State Department for Mining recognises all receipts from the various sources when the related cash has been received by the State Department.

3. Budget

The budget is developed on the same accounting basis (cash basis), the same accounts classification basis, and for the same period as these revenue statements. The revenue budget was approved as required by law and as detailed in the Government of Kenya Budget Printed Estimates. A high-level assessment of the revenue's actual performance against the comparable budget for the financial year under review has been included in these revenue statements.

Significant Accounting Policies (Continued)

4. Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya.
Revenue in Arrears

This relates to revenue earned and is yet to be received or collected by the State Department for Mining. These arrears are disclosed under the statement of arrears as required under the PFM Act, 2012 which is a memorandum statement. Disbursements to the Exchequer. The Receiver of Revenue has a daily arrangement for sweeping of funds from its bank account to the Exchequer account. Total disbursements to the exchequer are as a result of the sweeping arrangement during the year.

Comparative Figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

Subsequent Events

There have been no events subsequent to the financial year end with a significant impact on the revenue statements for the year ended June 30, 2023

State Department for Mining

Revenue Statements for the year ended 30th June 2023

11. Notes to the Financial Statements

1. Fees On Use of Goods/Services

Description	2022/2023	2021/2022
Mineral Export Licensing fee	8,421,550	-
Prospecting Fee	60,000	-
Total Fees	8,481,550	15,942,000
Balance brought forward		
Transfers to the Exchequer account	8,481,550	15,942,000
Balance carried forward	0	0

N.B

Kshs. 11,095,550 includes Kshs. 2,601,171,105 classified by error as Dealers Prospecting Licenses fees instead of Mineral Dealers License fees. The error was noted, but the amounts were treated at the defunct Ministry of Petroleum and Mining.

State Department for Mining

Revenue Statements for the year ended 30th June 2023

2. Property Income

Description	2022/2023	2021/2022
	<i>Kshs</i>	<i>Kshs</i>
Cement Levy:		
Mombasa Cement Ltd	294,927,603	282,995,323
Athi River Mining	-	17,028,356
Bamburi Cement Co. Ltd	299,960,080	320,125,608
National Cement Ltd	429,638,510	345,842,612
Rai Cement Ltd	9,994,800	16,746,000
Savannah Cement Company Ltd	-	-
KarsanRamji & Sons Ltd	7,136,394	5,658,556
Total for cement levy	1,041,657,387	988,396,455
Royalties		
Royalties on Carbon Dioxide	4,161,152	3,763,833
Mining Royalties	187,665,802	242,744,318
Magadi Soda Royalty	652,800,692	216,114,540
Base Titanium Royalty	1,822,882,658	3,371,700,084
Total for Royalties	2,667,510,304	3,834,322,775
TOTALS	3,709,167,691	4,822.719,230

State Department for Mining

Revenue Statements for the year ended 30th June 2023

Notes to the financial statements (Continued)

3. Miscellaneous Receipts (Not classified elsewhere)

Description	2022/2023	2021/2022
	Kshs	Kshs
Miscellaneous Revenue	-	-
Sundry Revenue	-	-
Total Revenue	-	-
Balance brought forward	-	-
Transfers to the Exchequer account	-	-
Balance carried forward	-	-

State Department for Mining

Revenue Statements for the year ended 30th June 2023

Note-s to the Financial Statements (Continued)

4. Bank Balances

Name of Bank, Account No. & currency	Amount in bank account currency	Exc. rate (if in foreign currency)	2022/2023	2021/2022
			Kshs	Kshs
Central Bank of Kenya Account No: 1000695559 Currency: Kenya Shillings	-	-	-	-
Total	-	-	-	-

5. Payables- Due to Exchequer

Payables	2022/2023	2021/2022
	Kshs	Kshs
Balance b/f at the beginning of the year	-	-
Amounts received during the year	-	-
Amounts disbursed to Exchequer during the year	(-)	(-)
Balance c/d at the end of the year	-	-
Total	-	-

This relates to amounts yet to be disbursed to the exchequer at the end of the financial year. The amount should be supported by the bank balances as per note 16 above.

6. Balance carried forward as at 30th June 2023 and subsequently transferred

Ref	Amount (Kshs)	Date subsequently transferred
1	-	-
2	-	-
Total	-	-

Notes to the Financial Statements (Continued)

7. Ageing Analysis of Revenue in Arrears

Description	Less than 1 year	Between 1-2 years	Between 2-3 years	Over 3 years	Total
	Kshs	Kshs	Kshs	Kshs	Kshs
Property income:					
Magadi soda	-	-	-	960,088,776	960,088,776
African diatomite	-	-	-	21,030,156	21,030,156
Carbacid	-	-	-	94,961,522	94,961,522
Kilimapesa	-	-	-	2,888,335	2,888,335
E.A Portland Cement	-	-	-	404,759,572	404,759,572
Bamburi Cement	-	-	-	21,884,362	21,884,362
National Cement	173,484,534	-	-	-	105,136,053
ARM Cement	-	-	-	290,232,493	290,232,493
Savannah Cement	There was an out of court settlement where SDM was forced to forego the arrears of Kshs. 370,862,635				

12. Appendices

Appendix 1: A Report of Waivers and Variations of Taxes, Fees or Charges granted by the Receiver of Revenue during the year.

Name of person / organisation benefitting from waiver/ variation	Year in which waiver/ variation relates	Amount of variation/ waiver (tax, fee, or charge)	Reasons for waiver/ variation	The law in terms of which the variation/waiver was granted
-	-	-	-	-

(PFM ACT Section 82 sub section 4, 5)



Accounting Officer

State Department for Mining

Revenue Statements for the year ended 30th June 2023

Appendix 2: Progress on Follow Up of Prior Year Auditor-General Recommendations

The following is the summary of issues raised by the Auditor –General and management comments that were provided. SDM has nominated focal persons to resolve the various issues as shown below with the associated time frame within which to expect the issues to be resolved.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
1531	Cadastre register was maintained but there was no register of mineral rights or records of licenses issued for each category to enable verification of receipts from mining and exploration licenses, export permits and mining royalties from various licenses.	Royalty payment records are managed through physical files of mineral rights holders and it is where the tracking happens. Awaiting budget to install digital royalty management system	Not resolved	On going
1532	Prospecting fee of Kshs. 25,048,358 was collected and deposited in the Departments Recurrent bank account and used as AIA	The amount was from Ground rent which is AIA has over time been misrepresented as Revenue.	Not resolved	On going

State Department for Mining

Revenue Statements for the year ended 30th June 2023

1533	Why levies arrears due and chargeable to East African Portland Cement Company Kshs. Of 404,759,572 were not assessed and reported in the relevant	The company had requested The Cabinet Secretary for payment of reduced rates and was granted per the Mining Act, 2016, Section 188(1). There was a Further request by State Department to declare thus a national debt per Section 182 and 189 of the Mining Act, 2016	Not resolved	On going
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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
	accounting periods			
1534	Savannah Cement Company arrears after signing of the payment plan the company defaulted in the plan and moved to high court to challenge the legal notice no. 222 Of 2013. The consent was not presented for audit review. Kshs. 5,000,000 they remitted was not supported by production and sales reports	Consent was availed for audit review, The SDM will initiate the process of writing off the bad debts through a letter to the National Treasury	Not resolved	On going

State Department for Mining

Revenue Statements for the year ended 30th June 2023

1535	Tata Chemicals Magadi accumulated arrears of Kshs675,023,295 since the FY 2015/2016. There has been no progress in recovery despite the agreement to pay 3% retrogressively. The money could not be recovered	The State Department requests this to be treated as national debt	Not resolved	On going
1536	Carbacid C02 Limited's arrears of Kshs. 78,490,587 relating to FYs 2017/2018 to	Due to poor business environment, the company is unable to pay. The company has petitioned for rates review which is at current a work in progress having undergone	Not resolved	On going

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
	2020/2021 could not be recovered	public participation		

State Department for Mining

Revenue Statements for the year ended 30th June 2023

1537	Unremitted mining Royalties by African Diatomite and Kilimapesa Company. SDM did not provide evidence of efforts to recover the same. Further, no document provided for audit review of license granted to Chauhsan International Mining Company to mine diatomite in 2016.	Kilimapesa has since cleared their debt of Kshs. 31,428,381.65 in October 2021.	Not resolved	On going
1538	Irregular underpayment of cement levy by National Cement Company-No evidence of gazettelement of the revised levy.	The company was allowed to pay at the reduced rate per the Mining Act, 2016 section 188(1)	Not Resolved	On going
1539	The receiver of revenue failed to collect annual ground rents of kshs. 133,335,448	The Ministry has revoked the non performing rights, demand notices are being sent to defaulters for payment	Not Resolved	On going
1540	EAPC and Savannah are mining without valid mining permits	Following the high court consent order petition, The Ministry has written to Savannah Company to apply for the mineral dealing license	Not Resolved	On going
1541	Failure to share Royalties and lack	A task force has been formed to develop a framework for the	Not resolved	On going

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Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
	of mechanism for sharing Royalties	transfer of the 10% share of Royalties to communities		
1542	Failure to establish Artisanal Mining Committees	Creating of artisanal mining committees is based on need basis and funding. The SDM has engaged the National Treasury and parliamentary committee on budget to allocate funds to fully operationalise the committees	Not resolved	On going
1543	Lack of Artisanal Miners Register.	Moratorium Against Licencing issued by the Government in December,2019 has curtailed the operations of existing artisanal mining committees since they cannot issue the artisanal mining permits.	Not resolved	On going
1544	Lack of monitoring of mining operations	The Directorate of Mines budget has been suffering budgetary and mobility constrains over the years. Despite this the SDM endeavour to conduct field inspections through the Regional Mining Officers although the officers struggle with the few resources	Not resolved	On going

Guidance Notes:


- (i) Use the same reference numbers as contained in the external audit report.
- (ii) Obtain the “Issue/Observation” and “management comments”, required above, from final external audit report that is signed by Management.

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- (iii) Before approving the report, discuss the timeframe with the appointed Focal Point persons within your entity responsible for implementation of each issue.
- (iv) Indicate the status of “Resolved” or “Not Resolved” by the date of submitting this report to National Treasury.


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Elijah Mwangi, CBS
Principal Secretary


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Kipyegon Henry Siele
Head of Accounting Unit
ICPAK No. 8879

Appendix 3 - Reports Generated from IFMIS

IFMIS financial reports to be presented upon request.